

KING COUNTY SUPERIOR COURT FOR THE STATE OF WASHINGTON
AT MALENG REGIONAL JUSTICE CENTER

MICHAEL K. PERKINS and KATHIE W.
PERKINS, individually and the marital
community comprised thereof,

Plaintiffs,

vs.

PNS STORES, INC., a foreign corporation,
d/b/a BIG LOTS! and PIC 'N' SAVE #4424;
BIG LOTS STORES, INC., a foreign
corporation, d/b/a BIG LOTS!; and ARGO
RENTON, LLC, a foreign limited liability
company,

Defendants.

No.

COMPLAINT FOR DAMAGES

COME NOW the plaintiffs herein, Michael K. Perkins and Kathie W. Perkins, by and
through their undersigned attorney of record, Ryan C. Nute and the Law Office of Ryan C. Nute,
and for cause of action against the defendants named herein hereby allege and assert as follows:

I. PARTIES

1.1 Plaintiffs Michael K. Perkins and Kathie W. Perkins at all material times hereto
were residents of Poulsbo, Kitsap County, State of Washington.

1.2 Plaintiffs Michael K. Perkins and Kathie W. Perkins at all material times hereto
were a marital community.

1.3 Upon information and belief, Defendant PNS Stores, Inc. is a foreign corporation
incorporated under the laws of the State of California (UBI 601 900 740) doing business in,
inter alia, Renton, King County, State of Washington as “Big Lots!” and “Pic ‘N’ Save #4424”.

1.4 Upon information and belief, Defendant Big Lots Stores, Inc. is a
foreign corporation incorporated under the laws of the State of Ohio (UBI 601 951 192) doing
business in, *inter alia*, Renton, King County, State of Washington as “Big Lots!”

1.5 Upon information and belief, Defendant Argo Renton, LLC is a
foreign limited liability company organized under the laws of the State of Delaware (603 332
372) doing business in Renton, King County, State of Washington.

II. JURISDICTION AND VENUE

2.1. The acts and omissions giving rise to this cause of action occurred in Renton,
King County, State of Washington.

2.2 Defendants conduct business in Renton, King County, State of Washington.

2.3 Jurisdiction and venue are properly lodged in the King County Superior Court at
the Maleng Regional Justice Center.

III. FACTS

3.1 Plaintiff Michael K. Perkins was injured in an incident (the “Incident”) occurring
on Wednesday, October 3, 2018 while he was making a delivery to the Big Lots! store number
4424, located at 4601 NE Sunset Blvd, Renton, WA 98059 (the “Premises”).

3.2 Upon information and belief, Defendants are parties to lease and/or sublease
agreements regarding the use and occupancy of the Premises.

1 3.3 On the morning of the Incident Mr. Perkins was operating a commercial tractor-
2 trailer truck and making a delivery to the Big Lots! store at the Premises.

3 3.4 The Incident occurred at approximately 6:10 a.m., before sunrise.

4 3.5 The Incident occurred when Mr. Perkins walked towards his truck parked in the
5 loading dock, unexpectedly encountered an asphalt slope adjacent to the loading dock and fell
6 down the slope.

7 3.6 The asphalt slope upon which Mr. Perkins fell is fairly and accurately depicted in
8 the photo below:



22 3.7 The asphalt slope upon which Mr. Perkins fell constituted an unreasonably
23 dangerous condition upon the Premises.

3.8 The asphalt slope was unreasonably dangerous because:

- (i) The asphalt slope was an unsafe walking condition due to the uneven surface, the degree of the slope/angle of incline and the abrupt variation in elevation.
- (ii) The Premises lacked adequate artificial illumination sufficient to make the hazard visible and perceptible to pedestrians in the absence of natural light.
- (iii) The asphalt slope was not guarded to prevent pedestrians from encountering the hazard.
- (iv) The asphalt slope not marked or otherwise demarcated to adequately warn pedestrians of the hazard.

3.9 Upon information and belief, Defendants created the unreasonably dangerous condition upon the Premises, or knew or should have known of its existence prior to the Incident in the exercise of reasonable care.

3.10 Defendants failed to identify, eliminate and remediate the unreasonably dangerous condition upon the Premises, and failed to warn Mr. Perkins of its existence.

3.11 As a result of the Incident Mr. Perkins suffered personal injuries and special and general damages in an amount to be proven at trial.

3.12 As a result of the Incident and Mr. Perkins' resulting injuries Mrs. Perkins suffered loss of consortium.

IV. CAUSES OF ACTION

A. Negligence (Premises Liability)

4.1 Plaintiffs reallege all prior paragraphs as though fully stated herein.

4.2 Mr. Perkins was upon the Premises as a business invitee and was invited to enter or remain thereon for a purpose directly or indirectly connected with business dealings with the possessor(s) of the land.

4.3 Defendants were possessors of the Premises at the time of the Incident.

4.4 Mr. Perkins sustained physical harm caused by a condition on the Premises.

4.5 Defendants knew or by the exercise of reasonable care would have discovered the condition, and should have realized that it involved an unreasonable risk of harm to invitees, and should have expected that they would not discover or realize the danger, or would fail to protect themselves against it, and failed to exercise reasonable care to protect them against the danger.

4.6 Defendants owed Mr. Perkins a duty to exercise reasonable care to protect him against a condition that created an unreasonable risk of harm, including inspecting for said condition, followed by such repair, safeguards, or warning as may have been reasonably necessary for his protection under the circumstances.

4.7 Defendants breached their duty of reasonable care by failing to identify, eliminate, remediate and warn of the unreasonably dangerous condition.

4.8 As a direct and proximate cause of Defendants' breach of their duty of reasonable care Mr. Perkins sustained injury.

4.9 Mr. Perkins has suffered damages in an amount to be determined at trial.

B. Loss of Consortium

4.10 Plaintiffs reallege all prior paragraphs as though fully stated herein.

4.11 A spouse has an independent cause of action for support, services, love, affection, care, companionship, society, and consortium.

4.12 As a direct and proximate result of Defendants' acts and omissions described herein, causing injuries and damages to Plaintiff Michael K. Perkins, Plaintiff Kathie W. Perkins has suffered damages in an amount to be proven at the time of trial.

V. PRAYER FOR RELIEF

WHEREFORE having fully set forth their claims against Defendants, Plaintiffs pray for relief as follows:

A. For monetary judgment in an amount sufficient to compensate Plaintiffs for the damages they suffered as a result of the acts described herein;

B. For prejudgment interest on all liquidated amounts as allowed by law;

C. For Plaintiffs' reasonable costs and attorneys' fees incurred herein, pursuant to all applicable statutory, common law, and equitable theories; and

D. For such other and further relief as the Court deems just and equitable.

DATED this 4th day of March, 2020.

LAW OFFICE OF RYAN C. NUTE

Attorney for Plaintiffs

By: 

Ryan C. Nute
WSBA No. 32530